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State of North Carolina
Utilities Commission

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Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
Portals
445 Twelfth Street, S.W.
Washington, DC 20554

April 17, 2000

Re: North Carolina Utilities Commission's Petition for Waiver of May 1, 2000
Geographically Deaveraged UNE Rate Deadline

Dear Ms. Salas:

Please find enclosed for filing an original and five copies of the North Carolina Utilities Commission's Petition for waiver of the May 1, 2000 deadline for North Carolina to establish geographically deaveraged Unbundled Network Element (UNE) rates. If you could file-stamp one copy of this petition and return it to me in the enclosed envelope for our internal records, it would be most appreciated. Thank you.

Very truly yours,

Robert H. Bennink, Jr.

Robert H. Bennink, Jr.
General Counsel
North Carolina Utilities Commission

No. of Copies rec'd 014
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of

Federal-State Joint Board on
Universal Service

Implementation of the Local
Competition Provisions of the
Telecommunications Act of 1996.

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CC Docket No. 96-45

CC Docket No. 96-98

THE NORTH CAROLINA UTILITIES COMMISSION'S
PETITION FOR WAIVER

INTRODUCTION

The North Carolina Utilities Commission (NCUC) requests that the Federal Communications Commission (FCC) waive its May 1, 2000 deadline in order to allow the NCUC sufficient time to establish the deaveraged unbundled network element (UNE) rates for non-rural carriers. The FCC's current rule 47 C.F.R. § 51.507(f) requires that the state commissions establish deaveraged UNE pricing and interconnection rates for non-rural carriers by May 1, 2000. The NCUC requests additional time to complete its review of the non-rural carriers' deaveraged UNE rates.

The process to determine the deaveraged UNE rates is complex and time-consuming. North Carolina has established a procedural schedule to adopt geographically deaveraged rates, however, it is apparent that the NCUC will not be able

to meet the May 1, 2000 deadline. A waiver extending the stay of the May 1, 2000 deadline, in light of the need for additional time, would serve the public interest.

The FCC has recognized that the "[s]tates may file waiver requests with the Commission seeking relief from the general [47 C.F.R. 51.507(f)] rule in light of their particular facts and circumstances." *In the Matter of Implementation of the Local Competition Provision in the Telecommunications Act of 1996*, CC Docket No. 96-98, Paragraph 7 (August 28, 1999). Furthermore, the Code of Federal Regulations allows the FCC to suspend or waive application of its rules "for good cause shown." 47 C.F.R. § 1.3 (West 2000).

DISCUSSION

The NCUC believes that certain states, including North Carolina, need additional time to implement the FCC's requirements regarding deaveraged UNE rates for non-rural carriers. The NCUC has issued an Order Setting Procedural Schedules to set geographically deaveraged UNE rates for BellSouth Telecommunications, Inc. (BellSouth), GTE South, Inc. (GTE), Carolina Telephone and Telegraph Company (Carolina), and Central Telephone Company (Central) [a copy of said Order is attached to this filing].

On September 26, 1997, the NCUC opened a docket to establish permanent UNE rates in North Carolina for BellSouth, GTE, Carolina, and Central (Docket No. P-100, Sub 133d). On December 10, 1998, the NCUC issued its Order Adopting Permanent Prices for UNEs.

Motions for Reconsideration and Clarification of the Commission's December 10, 1998 Order were filed. On August 18, 1999, the NCUC issued its Order

Ruling on Motions for Reconsideration and Clarification and Comments. Said Order required BellSouth, GTE, Carolina, and Central to refile their cost studies reflecting the decisions of the NCUC reflected in the August 18, 1999 Order and requested that the Public Staff of the NCUC, not later than 60 days from the date of the Order, either concur in the accuracy of the incumbent local exchange carrier (ILEC) filings or file comments setting forth any areas of disagreement with those filings.

Additionally, the NCUC's August 18, 1999 Order stated,

"[T]hat further proceedings shall be, and are hereby, initiated in this docket for **the purpose of developing geographically deaveraged UNE rates** pursuant to Section 51.507(f) of the FCC's pricing rules. Further, the parties to this proceeding are hereby requested to meet as necessary for the purpose of developing a consensus as to the major issues and subissues in need of resolution in the instant regard and the procedures the Commission should follow in resolving those issues. The Commission requests that one or more parties volunteer to coordinate and facilitate such meeting or meetings. The parties are further requested to advise the Commission, no later than 20 days from the date of this Order, of the identity of the party or parties who will serve as meeting coordinator and the date, time, and location of the meeting. A listing of the issues and a chronological listing of the procedural steps the

Commission should follow in resolving those issues shall be filed with the Commission not later than 45 days from the date of this Order. Reply comments shall be filed not later than 75 days from the date of this Order." [emphasis added]

By Order dated November 4, 1999, the NCUC established a procedural schedule to consider geographically deaveraged UNE rates.

On November 16, 1999, the Public Staff filed its comments on the ILEC cost study filings. The Public Staff outlined several areas where the Public Staff believed the ILECs' cost studies did not adhere to the Commission's August 18, 1999 Order. On November 18, 1999, the NCUC issued an Order Requesting Parties to Meet and Setting Time for Replies to the November 16, 1999 Comments. The NCUC requested that the parties meet to discuss the November 16, 1999 comments in a good-faith effort to resolve the areas of supposed deficiencies of the ILECs' cost studies. A date was set for the filing of replies to the November 16, 1999 comments.

On January 11, 2000, the NCUC ordered that the procedural schedule established in its November 4, 1999 Order to consider geographically deaveraged UNE rates was to be held in abeyance pending further Order of the NCUC after final UNE prices were determined.

On January 28, 2000, the NCUC issued its Order Ruling on the Comments and Reply Comments filed on the UNE cost studies filed by BellSouth, Carolina, Central, and GTE in response to the NCUC's August 18, 1999 Order. The January 28, 2000 Order required BellSouth, Carolina, Central, and GTE to refile their UNE cost studies to reflect

certain revisions by February 11, 2000. The Public Staff was requested to file a statement either concurring in the accuracy of the cost studies or file comments setting forth any areas of disagreement with those filings by February 28, 2000. On March 13, 2000, the NCUC issued its Order Adopting Permanent UNE Rates. Said Order adopted permanent UNE rates for BellSouth, GTE, Carolina, and Central. By Order dated March 20, 2000, the NCUC requested those ILECs to file by March 24, 2000, nonproprietary price list summaries of the permanent UNE rates adopted by the Commission on March 13, 2000.

On March 30, 2000, the NCUC issued its Order Setting Procedural Schedules in Docket No. P-100, Sub 133d which established schedules for the NCUC to consider the impacts of the FCC's UNE Remand Order, the FCC's Line Sharing Order, issues that the NCUC had deferred from arbitration proceedings to a generic docket, and geographically deaveraged UNE rates. The NCUC ordered two Phases: hearings in the Phase I proceeding are set to begin July 31, 2000, and hearings in the Phase II proceeding are set to begin August 28, 2000. Motions to modify the procedural schedule have been filed, however, the Commission has not ruled on those Motions to date.

The NCUC has been working diligently to develop geographically deaveraged UNE rates. However, the NCUC will be unable to complete a comprehensive investigation into geographically deaveraging UNE rates by May 1, 2000. As a result, the NCUC requests that the FCC extend the stay of the deaveraging requirement until no earlier than May 1, 2001.

This request for a North Carolina-specific waiver is being made pursuant to the FCC's April 28, 1999 decision *In the Matter of Implementation of the Local Competition*

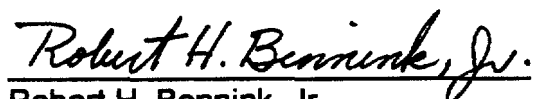
Provision in the Telecommunications Act of 1996, CC Docket No. 96-98, Paragraph 7 (August 28, 1999) that permits States to file for an extension of time to review the non-rural carriers' deaveraged UNE rates.

CONCLUSION

In closing, the NCUC wishes to thank the FCC for its consideration of our Petition requesting an extension of time in which to complete our review of BellSouth's, GTE's, Carolina's, and Central's deaveraged UNE rates based on TELRIC.

Respectfully submitted,

Jo Anne Sanford, Chair


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Dated: April 17, 2000